

EXHIBIT A

GIBSON DUNN

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August 11, 2017

VIA COURIER AND E-MAIL

Bridget M. Rohde, Esq.
United States Attorney
U.S. Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Evan Greebel, S1 15 Cr. 637 (KAM)

Dear United States Attorney Rohde:

We write to request that the United States Attorney's Office for the Eastern District of New York ("the Office") dismiss the conspiracy charge in Count Seven of the Superseding Indictment against Evan Greebel in light of the acquittal of Martin Shkreli on that very same count. We would ask you to meet with us at your earliest convenience to discuss this very serious and pressing matter. A well-regarded and nationally recognized attorney's life and reputation are at stake.

It is contrary to the interests of justice, and the finding of the jury, for the United States Department of Justice to continue to pursue the conspiracy charge in Count Seven when the indisputable leader, the dominant and controlling party, and the alleged beneficiary of the charged conspiracy—Mr. Shkreli—has been acquitted by a jury in the Eastern District of New York.

Count Seven of the Superseding Indictment alleges that Mr. Shkreli, together with Mr. Greebel, conspired to defraud Retrophin by causing it to (i) transfer Retrophin shares to MSMB Capital even though MSMB Capital never invested in Retrophin, (ii) enter into settlement agreements with defrauded MSMB Capital and MSMB Healthcare ("MSMB Funds") investors to settle liabilities owed by the MSMB Funds and Shkreli, and (iii) enter into sham consulting agreements. During the trial of *United States v. Shkreli*, the government itself argued: "[T]he evidence could not be more clear, Martin Shkreli wasn't relying on Evan Greebel. Evan Greebel wasn't leading him around by the nose. You saw the e-mail. You saw the way Martin treated Evan Greebel. You embarrass me. You're lazy and stupid. More business for another firm. Good job, Even [sic]. God bless America. Martin was the dominant person in that relationship and that relationship was a criminal conspiracy. There is no doubt about it." Shkreli Trial Tr. 5515:5-13 (emphasis added).

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Pursuing Count Seven against Mr. Greebel is contrary to the significant principle of federal prosecution that prosecutorial decisions should “prevent unwarranted disparities.” USAM Section 9-27.001. Under this provision, the government should not seek to convict Mr. Greebel on a Count in the Superseding Indictment when Mr. Shkreli, the man the government argued was the indisputable leader and “the dominant person” in the alleged conspiracy, was found not guilty on this same Count. Thus, dismissing Count Seven is necessary to “promot[e] confidence on the part of the public and individual defendants that important prosecutorial decisions will be made rationally and objectively on the merits of the facts and circumstances of each case.” *Id.*

It would be inconceivable that the Department of Justice would countenance a possible outcome of this prosecution in which Mr. Shkreli could be acquitted of the crime charged in Count Seven, but in which Mr. Greebel could be convicted on Count Seven. Such a result would be patently unjust and unfair.

Justice and the fair, evenhanded administration of the federal criminal laws require the dismissal of Count Seven against Mr. Greebel. Following the verdict, you stated in your press conference that: “We have been gratified throughout the trial at the close attention that the jury paid to the evidence. And we’re gratified, as we stand here today, by the jury’s verdict. Justice has been served.” We ask the Office to listen to the jury and respect the jury’s finding that there was no conspiracy as alleged in Count Seven.

The jury rejected the notion that Mr. Shkreli and Mr. Greebel were engaged in a criminal conspiracy to defraud Retrophin in Count Seven. Should the Office continue to pursue that charge against Mr. Greebel, the Office would be failing to honor the voice of the jury. In short, pursuing this charge against Mr. Greebel would ignore the important duty to prosecute justly, would undermine the public’s confidence in the United States Department of Justice’s respect for the jury system, and would constitute an unjust and unfair outcome. For all these reasons, not proceeding against Mr. Greebel on Count Seven is simply the right thing to do.

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We look forward to meeting with you at your earliest convenience.

Sincerely,



GIBSON, DUNN & CRUTCHER LLP

Randy M. Mastro

Reed Brodsky

Winston Y. Chan

Lawrence J. Zweifach

Jason P.W. Halperin

Lisa H. Rubin

cc: AUSA Elizabeth Geddes, Esq.

AUSA Jacquelyn Kasulis, Esq.

AUSA Alixandra Smith, Esq.

AUSA G. Karthik Srinivasan, Esq.

AUSA David Kessler, Esq.

AUSA David Pitluck, Esq.

From: Mastro, Randy M.
Sent: Wednesday, August 16, 2017 5:40 PM
To: Rohde, Bridget (USANYE) <Bridget.Rohde@usdoj.gov>
Cc: Brodsky, Reed <RBrodsky@gibsondunn.com>; Geddes, Elizabeth (USANYE) <Elizabeth.Geddes@usdoj.gov>; Merkl, Taryn (USANYE) <Taryn.Merkl@usdoj.gov>; Kasulis, Jacquelyn (USANYE) <Jacquelyn.Kasulis@usdoj.gov>; Smith, Alixandra (USANYE) 12 <Alixandra.Smith@usdoj.gov>
Subject: Re: Meeting Request re Greebel Case

We will proceed accordingly.

From: Bridget.Rohde@usdoj.gov
Sent: August 16, 2017 5:38 PM
To: RMastro@gibsondunn.com
Cc: RBrodsky@gibsondunn.com; Elizabeth.Geddes@usdoj.gov; Taryn.Merkl@usdoj.gov; Jacquelyn.Kasulis@usdoj.gov; Alixandra.Smith@usdoj.gov
Subject: RE: Meeting Request re Greebel Case

Dear Messrs. Mastro and Brodsky: I have received your emails of last Friday and today. I understand that you have been in communication with the Assistant U.S. Attorneys in charge of this matter, Business and Securities Fraud Chief Jacquelyn Kasulis and Alixandra Smith. To avoid any lack of clarity, I am declining the meeting you have requested; I understand that AUSAs Kasulis and Smith have advised you that the United States will not be dismissing the indictment against your client and that is the Office's position.

Sincerely,

Bridget Rohde

Bridget M. Rohde

Acting United States Attorney

Eastern District of New York

Bridget.Rohde@usdoj.gov

[\(718\) 254-6260](tel:(718)254-6260)

From: Mastro, Randy M. [<mailto:RMastro@gibsondunn.com>]

Sent: Wednesday, August 16, 2017 4:07 PM

To: Rohde, Bridget (USANYE) <BRohde@usa.doj.gov>

Cc: Brodsky, Reed <RBrodsky@gibsondunn.com>

Subject: Meeting Request re Greebel Case

I recently wrote you requesting a meeting as soon as possible about the status of this case, which we believe, in light of the Shkreli verdict, the government should be dismissing, in whole or in part . Please let me know by no later than this Friday when you are available to meet with us in the immediate future. As you know, time is of the essence, as this case is scheduled for trial in the Fall. If I do not hear from you by this Friday, I will understand you to be declining my meeting request, and we will therefore proceed accordingly.

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